

1 BILL NO. S-85-11-33

2 SPECIAL ORDINANCE NO. S 217-85

3 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE  
4 TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND  
(GERALD E. SMITH AND MARY K. SMITH PROJECT)  
5 SERIES 1985" AND APPROVING  
OTHER ACTIONS IN RESPECT THERETO

6 WHEREAS, the Fort Wayne Economic Development Commission has  
7 rendered its Project Report for the Gerald E. Smith and Mary K.  
8 Smith Project regarding the financing of proposed economic develop-  
9 ment facilities for the Project and the Fort Wayne Plan Commission  
10 has commented favorably thereon; and

11 WHEREAS, the Fort Wayne Economic Development Commission  
12 conducted a public hearing on November 7, 1985, and also adopted a  
13 resolution on November 7, 1985, which Resolution has been  
14 transmitted hereto, finding that the financing of certain economic  
15 development facilities of Gerald E. Smith and Mary K. Smith complies  
16 with the purposes and provisions of I.C. 36-7-11.9 and 12 and that  
17 such financing will be of benefit to the health and welfare of the  
18 City of Fort Wayne and its citizens; and

19 WHEREAS, the Fort Wayne Economic Development Commission has  
20 heretofore approved and recommended the adoption of this form of  
21 Ordinance by this Common Council, has considered the issue of  
22 adverse competitive effect and has approved the forms of and has  
23 transmitted for approval by the Common Council the Loan Agreement,  
24 Mortgage and Security Agreement, Trust Indenture, Building Lease,  
25 Conditional Assignment of Lease and Rentals, and Lessee's Consent  
26 and Agreement to Lease Assignment; now therefore,

27 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
28 WAYNE, INDIANA, THAT:

29 SECTION 1. It is hereby found that the financing of the  
30 economic development facilities referred to in the Loan Agreement  
31 approved by the Fort Wayne Economic Development Commission and pre-  
32 sented to this Common Council, the issuance and sale of revenue

1 bonds, the loan of the proceeds of the revenue bonds to Gerald E.  
2 Smith and Mary K. Smith for the acquisition and construction of such  
3 facilities and the equipping thereof, and the payment of the  
4 revenue bonds by the payments of Gerald E. Smith and Mary K. Smith  
5 under the Loan Agreement, complies with the purposes and provisions  
6 of I.C. 36-7-11.9 and 12 and will be of benefit to the health and  
7 welfare of the City of Fort Wayne and its citizens.

8 SECTION 2. The economic development facilities will con-  
9 sist of acquisition of real estate and construction of an 8,000 sq.  
10 ft. building for use as office, service and storage, related to the  
11 sale and servicing of office equipment, for lease to Van Ausdall &  
12 Farrar, Inc., said project to be located on Magnavox Way, Fort  
13 Wayne, Indiana (the "Project").

14 SECTION 3. At the public hearing held by the Fort Wayne  
15 Economic Development Commission, the Commission considered whether  
16 the economic development facilities would have an adverse com-  
17 petitive effect on any similar facilities located in the City of  
18 Fort Wayne, and found, based on special findings of fact set forth  
19 in the Resolution transmitted hereto, that the facilities would not  
20 have an adverse competitive effect. This Common Council hereby con-  
21 firms the findings set forth in the Commission's Resolution, and  
22 concludes that the economic development facilities will not have an  
23 adverse competitive effect on any other similar facilities in the  
24 City of Fort Wayne, and the facilities will be of benefit to the  
25 health and welfare of the citizens of the City of Fort Wayne.

26 SECTION 4. The substantially final forms of the Loan  
27 Agreement, Mortgage and Security Agreement, Trust Indenture,  
28 Building Lease, Conditional Assignment of Lease and Rentals, and  
29 Lessee's Consent and Agreement to Lease Assignment, approved by the  
30 Fort Wayne Economic Development Commission are hereby approved and  
31 each shall be incorporated herein by reference and shall be inserted  
32 in the minutes of the Common Council and kept on file by the Clerk.

1 In accordance with the provisions of I.C. 36-1-5-4, two (2) copies  
2 of each of said documents are on file in the office of the Clerk for  
3 public inspection.

4 SECTION 5. The City of Fort Wayne shall issue its Economic  
5 Development Revenue Bonds (Gerald E. Smith and Mary K. Smith  
6 Project) Series 1985, in the total principal amount of Four Hundred  
7 Fifty Thousand Dollars (\$450,000.00) and maturing January 1, 1996.  
8 Said bonds are to be issued for the purpose of procuring funds to  
9 pay the costs of acquisition, construction and equipping of the eco-  
10 nomic development facilities as more particularly set out in the  
11 Loan Agreement, Mortgage and Security Agreement and Trust Indenture  
12 incorporated herein by reference, which bonds will be payable as to  
13 principal, premium, if any, and interest from the payments made by  
14 Gerald E. Smith and Mary K. Smith and payments made under the  
15 building lease or as otherwise provided for under the Loan  
16 Agreement, Mortgage and Security Agreement and Trust Indenture. The  
17 bonds shall be issued in fully registered form in the denomination  
18 of \$5,000 or any integral multiple of \$5,000 in excess thereof pro-  
19 vided that the bonds may be issued in the denomination of \$5,000 or  
20 any integral multiple thereof if necessary to evidence the unre-  
21 deemed portion of any bond. The bonds shall be redeemable as pro-  
22 vided in Article V of the Trust Indenture. Payments of principal  
23 and interest are payable in lawful money of the United States of  
24 America. Payments of principal are payable at the principal office  
25 of the Trustee or its successor in trust. Payments of interest are  
26 payable by check mailed to the registered owner as of the Record  
27 Date as provided in the Indenture of Trust. The bonds shall never  
28 constitute a general obligation of, an indebtedness of, or a charge  
29 against the general credit of the City of Fort Wayne, nor are the  
30 bonds payable in any manner from revenues raised by taxation.

31 SECTION 6. The Mayor and Clerk are authorized and directed  
32 to sell such bonds to the purchasers thereof at a price of not less

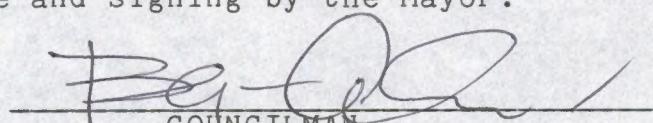
1 than 100% of the principal amount thereof. The bonds shall bear  
2 interest at a rate of interest of 9½% or at such other rate as pro-  
3 vided for in the Trust Indenture.

4 SECTION 7. The Mayor and Clerk are authorized and directed  
5 to execute, attest, affix or imprint by any means the City seal to  
6 these documents to be executed by the City which are approved herein  
7 on behalf of the City and any other document which may be necessary  
8 or desirable to consummate the transaction, including the bonds  
9 authorized herein. The Mayor and Clerk are hereby expressly  
10 authorized to approve any modifications or additions to the docu-  
11 ments to be executed by the City which are approved herein which  
12 take place after the date of this Ordinance with the review and  
13 advice of the City Attorney; it being the express understanding of  
14 this Common Council that said documents to be executed by the City  
15 are in substantially final form as of the date of this Ordinance.  
16 The approval of said modifications or additions shall be conclusi-  
17 vely evidenced by the execution and attestation thereof and the  
18 affixing of the seal thereto or the imprinting of the seal thereon;  
19 provided, however, that no such modification or addition shall  
20 change the maximum principal amount of, interest rate on or term of  
21 the bonds as approved by the Common Council by this Ordinance  
22 without further consideration by the Common Council. The signatures  
23 of the Mayor and Clerk on the bonds may be either manual or fac-  
24 simile signatures. The Clerk is authorized to arrange for delivery  
25 of such bonds to the Trustee named in the Trust Indenture, and  
26 payment for the bonds will be made to the Trustee named in the Trust  
27 Indenture and after such payment the bonds will be delivered by the  
28 Trustee to the purchasers thereof. The Mayor and Clerk shall exe-  
29 cute and the Clerk shall deliver the bonds to the Trustee within  
30 ninety days of the adoption of this ordinance. The bonds shall be  
31 dated the date of authentication thereof.

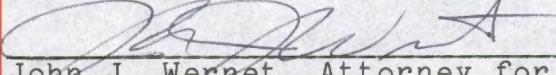
32 SECTION 8. The provisions of this Ordinance and the Trust

1 Indenture securing the bonds shall constitute a contract binding  
2 between the City of Fort Wayne and the holder of the Economic  
3 Development Revenue Bond (Gerald E. Smith and Mary K. Smith Project)  
4 Series 1985, and after the issuance of said bonds, this Ordinance  
5 shall not be repealed or amended in any respect which would adver-  
6 sely affect the rights of such holders so long as any of said bonds  
7 or the interest thereon remains unpaid.

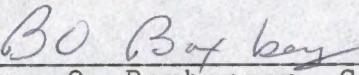
8 SECTION 9. This Ordinance shall be in full force and  
9 effect from and after its passage and signing by the Mayor.

10   
11 COUNCILMAN

12 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION  
13 AND APPROVED AS TO FORM.

14   
15 John J. Wernet, Attorney for the  
Economic Development Commission  
16 Dated this 12<sup>th</sup> day of November, 1985.

17 APPROVED AS TO FORM AND LEGALITY.

18   
19 Bruce O. Boxberger, City Attorney  
20 Dated this 12<sup>th</sup> day of November, 1985.

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Read the first time in full and on motion by Eisbark,  
seconded by Oliver, and duly adopted, read the second time  
by title and referred to the Committee Finance (and the Ci  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Way  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E

DATE: 11-12-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Gia Quinta,  
seconded by Oliver, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>Gia QUINTA</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>HENRY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>REDD</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 11-26-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort  
Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 1-217-85  
on the 26th day of November, 1985.

ATTEST:

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Mark E. Gia Quinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 27th day of November, 1985.  
at the hour of 1:00 o'clock P. M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 4th day of December,  
1985, at the hour of 1:00 o'clock P. M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR

BILL NO. S-85-11-33

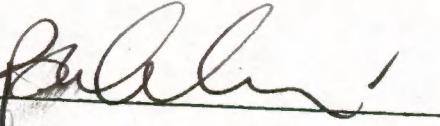
REPORT OF THE COMMITTEE ON FINANCE

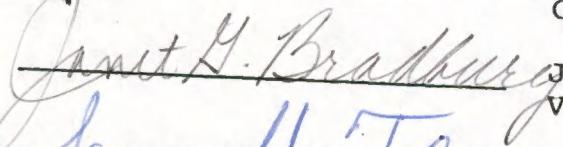
WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS  
REFERRED AN (ORDINANCE) (RESOLUTION) AUTHORIZING THE CITY OF  
FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND (GERALD  
E. SMITH AND MARY K. SMITH PROJECT) SERIES 1985" AND APPROVING  
OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(RESOLUTION) DO PASS DO NOT PASS WITHDRAWN

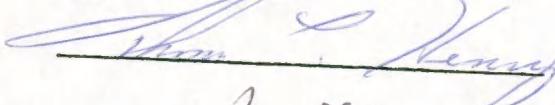
YES

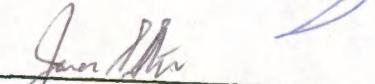
NO

  
BEN A. EISBART  
CHAIRMAN

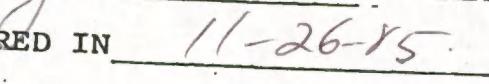
  
JANET G. BRADBURY  
VICE CHAIRWOMAN

  
SAMUEL J. TALARICO

  
THOMAS C. HENRY

  
JAMES S. STIER

CONCURRED IN 11-26-85

  
SANDRA E. KENNEDY  
CITY CLERK